

Amendments to Drawings

Replacement Sheets with amended Figs. 1-3 are enclosed herewith. The amendments contain no new matter and merely illustrate what is described in the text.

## REMARKS

### I. Status of the Application

Claims 1-30 are pending in this application. In the March 9, 2005 office action, the

Examiner:

- A. Objected to the drawings for a number of informalities;
- B. Objected to the disclosure for a number of informalities;
- C. Objected to claims 1-25 and 27-30 for a number of informalities;
- D. Rejected claims 11-20 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement; and
- E. Rejected claims 1-10, 15, 17-20 and 26-30 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite; and
- F. Deemed claims 1-10 and 26-30 allowable if rewritten to overcome the indefiniteness rejections;
- G. Deemed claims 21-25 allowable if rewritten to overcome the objections; and
- H. Deemed claims 11-20 allowable if rewritten to overcome the enablement requirements.

In this response, applicant has amended drawing Figs. 1-3 in accordance with the Examiner's suggestions, amended the disclosure in accordance with the Examiner's suggestions, and amended claims 1, 5, 8, 9, 11, 15-24, 26, 27, 29 and 30 to address the various objections and indefiniteness rejections. Applicant respectfully traverses the nonenablement rejection of claims 11-20 in view of the foregoing amendments and the following remarks.

II. The Objections to the Drawings are Moot

The Examiner objected to the drawings because of informalities in Figs. 1-3. In particular, the Examiner required arrows indicating signal flow in Figs. 1-3, correction to reference symbols 142, 145a and 153 and inclusion of reference number 140 in Fig. 3, and a movement of a tilde “~” in Fig. 3.

Figs. 1-3 have been amended as required by the Examiner. Support for the drawings as amended is well documented in the specification. Accordingly, it is respectfully submitted that the objection to the drawings is moot and should be withdrawn.

III. The Objections to the Disclosure are Moot

The Examiner objected to the disclosure for informalities that largely consist of minor inadvertent errors. In addition, the Examiner has required that the citation to other patent applications on page 11 of the specification be amended to reflect that the cited applications have been abandoned.

Applicants have amended the disclosure as suggested by the Examiner. Accordingly, it is respectfully submitted that the objections to the disclosure are moot and should be withdrawn.

IV. The Objections to the Claims are Moot

The Examiner objected to claims 1-25 and 27-30 for a number of informalities. These informalities are listed in detail in the March 9, 2005 office action at page 3. The Examiner required specific amendments to claims 1, 5, 8, 20, 21, 22, 23, 24, 28 or 30. Those claims have all been amended as suggested by the Examiner, or in a way that otherwise addresses the

concerns of the Examiner. In the most notable variation from the Examiner's suggestions for amendment, claim 20 has been amended in a manner different than that which was proposed by the Examiner. However, it is submitted that in view of amendments to claim 11, the amendments to claim 20 set forth herein sufficiently address any informalities that originally existed within that claim.

It is therefore respectfully submitted that the objections to claims 1, 5, 8, 20, 21, 22, 23, 24, 28 or 30 are moot and should be withdrawn.

V. The Indefiniteness Rejections to the Claims are Moot

The Examiner rejected claims 1-10, 15, 17-20 and 26-30 as allegedly being indefinite. In support of the rejections, specific indefinite portions of the claims are discussed in detail in the March 9, 2005 office action at pages 5-6. Such portions are addressed below individually.

First, the Examiner requested that the applicant clarify the difference between "absolute signal strength measurement" in claims 1 and 6, and "absolute signal strength measurements" in claim 26. Claim 26 has been amended to recite "absolute signal strength measurement". Accordingly, this request is moot and this issue of indefiniteness has been resolved.

The Examiner also alleged that the phrase "said particular selected digital channel" of claims 1, 8 and 15 lacked antecedent basis. (*Id.* at p.5). This phrase has been rewritten in a way such that there is no longer a lack of adequate antecedent basis in those claims. More specifically, in claims 1 and 8, the term "particular" has been removed, and the term "frequency" has been added. As a consequence, the phrase now has an adequate antecedent phrase in claim 1, which recites "a selected digital channel frequency". Similarly, in claim

15, the phrase has been rewritten with the term “particular” removed. As a result, claim 11 provides an antecedent basis for the phrase “selected digital channel” in claim 15.

Accordingly, claims 1, 8 and 15 no longer contain phrases that lack antecedent basis.

The Examiner also identified that the phrase “said extrapolation for a combination of absolute level responses of said adjacent channels” of claims 18 and 19 lacked antecedent basis. Claims 18 and 19 have been amended such that they both depend from claim 17, which recites a first instance of the “extrapolation”. Claims 18 and 19 have also been amended to delete the reference to “said adjacent channels”. Accordingly, claims 18 and 19 no longer contain a phrase that lacks an antecedent basis.

Claim 20 has been amended in multiple ways to address the indefiniteness rejection thereof.

For the foregoing reasons, it is respectfully submitted that the indefiniteness rejections of claims 1, 6, 8, 15, 18-20 and 26 are moot and should be withdrawn. The rejections of the remaining claims 2-5, 7, 9-10, 17 and 27-30 result from their dependence on rejected base claims. Because the indefiniteness rejections of claims 1, 6, 8, 15, 18-20 and 26 have been addressed, it is submitted that the indefiniteness rejections of claims 2-5, 7, 9-10, 17 and 27-30 are also moot and should be withdrawn.

#### VI. The Enablement Rejections are in Error

The Examiner has rejected claims 11-20 as allegedly failing to comply with the enablement requirement. The Examiner alleged that the “specification fails to explain the operation of the claimed subject matter of claim 11 and the configuration of the claimed subject matter does not correspond to the disclosure of Figures 1-3 or the flowchart of Figure

6. . ." (March 9, 2005 office action at p.5)

Applicants respectfully disagree. In particular, to satisfy the enablement requirement, the specification need only disclose sufficient information to allow one of ordinary skill in the art to practice the invention without undue experimentation. It is submitted that the specification as filed allows one of ordinary skill in the art to practice the invention.

In particular, claim 11 is set forth below, element by element, along with the citations to portions of the specification that teach the element:

*A method of determining a frequency response of a communication system, comprising:*

(Claim 1 is admitted enabled, and includes this preamble)

*tuning to a frequency of a selected digital channel;*

(E.g. Specification at p.7, lines 9-11; claim 1);

*obtaining first relative frequency response measurements for said selected digital channel for a first location;*

(E.g. Specification at p.7, lines 12-16, Figs. 2-6 and accompanying description)

*obtaining second relative frequency response measurements for said selected digital channel for a second location;*

(E.g. Specification at p.7, lines 12-16, Figs. 2-6 and accompanying description; also well known in the art that measurements of a cable plant may be taken at various positions on the cable plant; see also Specification at p.8, line 25 to p.9, line 2)

*obtaining an absolute signal strength at said first location and said second location;*

(E.g. Specification at p.11, lines 6-17)

*combining said first relative frequency response measurements and said first location absolute signal strength to obtain a first absolute level frequency response value;*

(E.g. Specification at p.7, lines 19-21; p.16, lines 9-11)

*combining said second relative frequency response measurements and said second location absolute signal strength to obtain a second absolute level frequency response value;*

(E.g. Specification at p.7, lines 19-21; p.16, lines 9-11)

*comparing said first absolute level frequency response value from said second absolute level frequency response value to obtain said frequency response of the communication system*

(E.g. Specification at p.8, line 25 to p.9, line 2)

The above-cited passages provide enabling disclosure of each and every element of claim 11. Accordingly, claim 11 is in compliance with the enablement requirement.

Stated another way, claim 11 recites a measurement similar to claim 1. However, that measurement is taken in two different locations. Since the Examiner appears to admit that measurement recited in claim 1 has been enabled, then the performance of such a measurement in two different locations does not require any expertise except moving the measurement equipment. Cable television field test equipment, like all field test equipment, is designed to be moved in order to take measurements in multiple locations. Thus, the taking of measurements in two different locations, when the measurement method is adequate taught, does not require undue experimentation.

Claim 11 further requires comparing the results of the measurements, which is plainly taught at the paragraph that spans the bottom of page 8 and the top of claim 9.

For the foregoing reasons it is respectfully submitted that the subject matter of claim

11 complies with the enablement requirement. Accordingly, the rejection of claim 11 under 35 U.S.C. §112, first paragraph, is in error and should be withdrawn.

Claims 12-20 stand rejected as allegedly being nonenabled because they depend from claim 11. (March 9, 2005 office action at p. 5). Because claim 11 is not invalid for failing to comply with the enablement requirement, it is respectfully submitted that the nonenablement rejection of claims 12-20 should also be withdrawn.

VII. Conclusion

For all of the foregoing reasons, it is respectfully submitted the applicant has made a patentable contribution to the art. Favorable reconsideration and allowance of this application is, therefore, respectfully requested.

Respectfully submitted,



Harold C. Moore  
Attorney for Applicants  
Attorney Registration No. 37,892  
Maginot Moore & Beck  
Bank One Center Tower  
111 Monument Circle, Suite 3000  
Indianapolis, Indiana 46204-5115  
Telephone: (317) 638-2922